

REMARKS

Pending Claims

Claims 28-38 have been cancelled. Claims 39-52 have been added. Claims 39-52 are pending in the application. Support for the new claims can be found throughout the specification, including, for example, the sections shown below:

The honey compositions of the present invention contain natural honey and approximately 35-50% by weight of an extender molecule.. (Page 2, lines20-23);

Preferably, the composition of the invention contains at least 40% by weight of natural honey, and approximately 35% to approximately 50% of an extender molecule. More preferably, the product is comprised of approximately 50% honey and approximately 30% to 40% of an extender molecule. (Page 3, lines 4-36);

The compositions of the present invention are reduced in sugar, including both glucose and fructose content, as compared with natural honey. Preferably, the compositions contain less than 25% by weight of fructose or glucose, more preferably less than 15%, and most preferably, less than 5%. (Page 4, lines 7-12)

The low sugar compositions of the present invention may be produced by dissolving an extender molecule in water, adding natural honey, and heating to a boil while stirring. The resulting low sugar honey... (Page 4, lines 13-16);

The color, viscosity, flavor, and texture of the extended honey composition approximated that of the original light amber honey.” (Examples 1-5)

See also Examples 1-5 and the claims as originally filed.

Entry of the claim amendments and reconsideration of the claims in view of these Amendments and following Remarks is requested.

35 U.S.C. § 102 - Vannotti

Claims 28, 31-33 and 38 were rejected under 35 U.S.C. §102(b) as anticipated by or in the alternative, under 35 U.S.C. 103(a) as obvious over, Vannotti (CH 564315). Claims 28, 31-33, and 38 are cancelled. To the extent the rejection may be applied to new claims 39-52, Applicants traverse.

Claims 39-52 are directed to honey compositions that include, *inter alia*, about 40 to about 65 wt% natural honey and about 35 to about 50 wt% of an extender selected from the group consisting of a C2-6 polyol, raffinose, stachyose, non-metabolizable dietary fiber, and mixtures thereof.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants submit that Vannotti fails to disclose each element of the pending claims.

Vanotti discloses an artificial honey product that contains a mixture of “between 40 and 55% by weight sorbite, between 25 and 35% by weight fructose”, “whose content of natural honey varies between 3 and 10% by weight” and “shall not exceed 10% by weight” (page 3, third full paragraph). Vanotti therefore fails to teach every element of claim 39-52, as each of these claims recites a composition having a natural honey content of “about 40 to about 65 wt%” having “no added fructose” or “less than 25% fructose”.

Consequently, claims 39-52 are patentable over Vanotti in view of 35 U.S.C. 102(b) for at least this reason. Withdrawal of the rejection is respectfully requested.

35 U.S.C. § 103 - Vannotti

Vannotti also fails to render the present claims obvious under 35 U.S.C. 103(a). Applicants note that “the presence of a property not possessed by the prior art is evidence of nonobviousness.” *MPEP 716.02(b)* (citing *In re Papesch*, 137 USPQ 43 (CCPA 1963). Prior to the present invention, attempts to produce a low calorie or reduced sugar honey had been generally unsuccessful due to the incompatibility of traditional thickening agents with the high viscosity and solids content of honey, resulting in honey products that were stringy,

cloudy, slimy, or slippery, and that had a low viscosity relative to natural honey (page 2, lines 4-11 of the specification). Honey compositions of the presently claimed invention, by contrast, were tested and found to possess color, viscosity, flavor, and texture that approximated that of the original honey (see the specification at page 5, lines 9-17; page 6, lines 3-6, lines 24-27, and lines 31-34; and page 7, lines 9-12).

Applicants submit that the claimed honey compositions are nonobvious in view of Vanotti, because, as discussed above for anticipation, the claimed compositions possess organoleptic properties of natural honey that were absent in extended honey compositions of the prior art. Specifically, the claimed invention provides honey compositions that comprise both extender and more than 40 wt% natural honey, yet possess desirable organoleptic properties (taste, color, viscosity) of natural honey, despite teachings of the prior art indicating that the mixing of traditional thickeners with honey results in honey having undesirable organoleptic characteristics.

Consequently, the presently claimed compositions are nonobvious in view of Vanotti because they possess organoleptic properties that were not known in the prior art. Vanotti only discloses compositions having less than 10 wt% honey as discussed above, and fails to provide any teaching or suggestion that honey compositions comprising high amounts of extender (*i.e.*, about 35 to 50 wt%) in combination with large amounts of natural honey (*i.e.*, at least 40 wt% or about 40 to about 65 wt% honey as recited by the present claims), would result in a product having the approximate color, flavor, viscosity, and texture of natural honey. Vanotti does not provide any reasonable expectation that manipulating amounts of natural honey and extender to obtain honey compositions as claimed would produce compositions having desirable organoleptic properties. As a result, claims 39-52 are non-obvious in view of Vanotti for at least these reasons. Withdrawal of this rejection is respectfully requested.

Declaration of Inventor

Applicants also submit with this Response a copy of a Declaration of the Inventor that was previously submitted in the parent application U.S. Patent Application Serial No. 07/784,891. The Declaration states that “[p]reviously known blended honey products having satisfactory taste, texture, viscosity, etc., have required the addition of fructose to the composition. The present invention is the first extended honey product which avoids these undesirable characteristics and provides an extended, reduced-sugar honey product having desirable organoleptic properties similar to that of natural honey” (see Paragraph 3).

Applicants note that Vanotti only discloses compositions having added fructose, resulting in final fructose concentrations of “between 25 and 35% by weight fructose” (see page 3, first full paragraph and Example 1). Claims 39-52, however, are directed to compositions that do not include added fructose and/or comprise less than 25 weight percent of fructose, with a “taste, color, and viscosity” that “approximates that of the natural honey”. As noted above, it was discovered that compositions of the claimed invention possessed these desirable properties of natural honey. Vanotti fails to teach or suggest that compositions having the high amounts of natural honey and extender with no added fructose and/or less than 25 wt% fructose would possess organoleptic properties approximating that of natural honey. Claims 39-52 are non-obvious in view of Vanotti for at least one of these reasons.

35 U.S.C. § 103 – Vannotti and Staub

Claims 29, 30 and 34-37 were rejected under 35 U.S.C. §103(a) as obvious over Vannotti (CH 564315) in view of Staub et al (US 4379782). Claims 29, 30 and 34-37 are cancelled. To the extent the rejection may be applied to new claims 39-52, Applicants traverse.

Applicants submit that claims 39-52 are non-obvious over Vannotti for the reasons discussed above. Staub fails to rectify the deficiencies of Vannotti. Staub is directed to low caloric food products formulated with dietary fiber and high levels of polysaccharide and/or polyols (see Abstract). Staub does not disclose honey compositions, and like Vanotti fails to

teach or suggest that formulating the claimed honey compositions, comprising about 40 to about 65 wt% natural honey and about 35-50 weight percent extender, with no added fructose, would result in a product possessing the organoleptic properties of natural honey. Applicants submit that claims 39-51 are non-obvious over Vanotti in view of Staub for at least these reasons. Withdrawal of the rejection is respectfully requested.

Conclusion

Applicants submit that all pending claims are in condition for allowance, and notice to that effect is earnestly solicited. If there are any remaining issues, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,

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